

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

DONJA SEAWELL)	
on behalf of herself and all others)	
similarly situated)	
)	
Plaintiff,)	Civil Action No. 05-CV-479
)	
vs.)	
)	
UNIVERSAL FIDELITY)	CLASS ACTION
CORPORATION)	
)	
Defendant.)	
)	

ORDER

AND NOW, this day of 2007, upon consideration of Plaintiff Donja Seawell's Motion for Leave to File a Surreply Memorandum of Law in response to Defendant Universal Fidelity Corporation's Reply in Further Support of Its Motion for Partial Summary Judgment, it is hereby ORDERED that Plaintiff's Motion is GRANTED. Plaintiff's Surreply Memorandum of Law, attached as Exhibit A to her Motion, is deemed filed of record.

Pollak,

S. J.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

Respectfully submitted,

FRANCIS & MAILMAN, P.C.

BY: /s/ JOHN SOUMILAS
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Attorneys for Plaintiff and the Class

Dated: March 19, 2007

EXHIBIT A

the class's recovery to a specific monetary figure, namely "\$3,550." That is what Defendant argues in its original motion and that is what it articulates in its supporting affidavit and proposed order. Moreover, the issue of how net worth is to be calculated, although an important issue as Plaintiff explains in her response in opposition, is not dispositive of any claim in this case. The method itself, therefore, is not a proper subject for a motion for summary judgment. The facts as to "how" Defendant maintains its financial records and whether that method properly reflects its net worth for FDCPA purposes is very much contested in this case, and thus cannot be resolved at the summary judgment stage.

Furthermore, this Court may not take into consideration, either for purposes of summary judgment or for trial, Plaintiff's demand letter dated December 13, 2005, which Defendant marks as Exhibit "B" to its motion seeking leave to file a reply brief. As is plain from the face of the letter, it is written for purposes of compromise and entitled to the protections of Federal Rule of Evidence 408. It is certainly not factual evidence in this case or a factual basis upon which to make any legal rulings, either at summary judgment or any other stage. *See* Fed. R. Evid. 408. Accordingly, this Court must discount Defendant's arguments in its reply to the extent that they relate in any way to

Plaintiff's demand letter dated December 13, 2005.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, John Soumilas, hereby certify that, on this date, I caused a true and correct copy of the foregoing Plaintiff's Motion Seeking Leave to File a Surreply to be served electronically in accordance with this Court's ECF procedures, upon the following individual:

Mr. Norman W. Briggs, Esquire
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DATE: March 19, 2007